

California Board of Accountancy



A MANUAL OF DISCIPLINARY GUIDELINES AND MODEL DISCIPLINARY ORDERS

**5th EDITION
2003**

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California Board of Accountancy

DISCIPLINARY GUIDELINES AND MODEL DISCIPLINARY ORDERS

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DISCIPLINARY GUIDELINES AND MODEL DISCIPLINARY ORDERS

I. INTRODUCTION

The California Board of Accountancy (the "Board") licenses the practice of accountancy in the State of California and may revoke, suspend, or refuse to renew any permit or certificate for violation of applicable statutes or regulations. The Board examines applicants, sets education requirements, and may deny licensure. The Board may, by regulation, prescribe, amend, or repeal rules of professional conduct appropriate to the establishment and maintenance of a high standard of integrity and competency in the profession.

The Board, through its Enforcement Division, assisted by its statutorily established Administrative Committee, receives and investigates complaints; initiates and conducts investigations or hearings, with or without the filing of a complaint; and obtains information and evidence relating to any matter involving the conduct of California Public Accountants and Certified Public Accountants as well as any alleged violation of the California Accountancy Act. The California Accountancy Act and the regulations of the California Board of Accountancy provide the basis for Board disciplinary action. (See California Business and Professions Codes Sections 5000 et seq., and Title 16 California Code of Regulations Sections 1 through 99.1.)

These disciplinary guidelines, designed for the use of Administrative Law Judges, attorneys, Board licensees, and others involved in the Board's disciplinary process, are revised from time to time. The guidelines cover model disciplinary orders, including factors to be considered in aggravation and mitigation; standard probationary terms; and guidelines for specific offenses. The guidelines for specific offenses are referenced to the statutory and regulatory provisions violated.

These disciplinary guidelines set forth recommended discipline for the violation of current statutes and regulations; includes a provision for community service; and provides additional guidance regarding disciplinary and model orders. This revised edition was adopted by the Board on January 24, 2003.

The Board recognizes that these recommended penalties and conditions of probation are merely guidelines and that mitigating or aggravating circumstances and other factors may necessitate deviations, as discussed herein.

II. GENERAL CONSIDERATIONS

The Board requests that **Proposed Decisions** following administrative hearings include the following:

- a. Specific code sections violated with their definitions.
- b. Clear description of the violation.
- c. Respondent's explanation of the violation if he or she is present at the hearing.
- d. Findings regarding aggravation, mitigation, and rehabilitation where appropriate (See factors set forth below/Section 99.1).
- e. When suspension or probation is recommended, the Board requests that the disciplinary order include terms within the recommended guidelines for that offense unless the reason for departure therefrom is clearly set forth in the findings and supported by the evidence.

If the respondent fails to appear for the scheduled hearing, such action shall result in a **default decision** to revoke license.

When the Board, at a **reinstatement hearing**, denies a petitioner's request for reinstatement, the Board requests that the Administrative Law Judge provide technical assistance in formulating language clearly setting forth the reasons for denial. Such a **statement** should include, for example, a statement on rehabilitation, including suggestions for further approaches by petitioner to demonstrate rehabilitation, where appropriate.

- f. Reimbursement to the Board for costs of investigation and prosecution as warranted by Business and Professions Code Section 5107.

The Board will consider **stipulated settlements** to promote cost effectiveness and to expedite disciplinary decisions if such agreements achieve its disciplinary objectives. Deputy Attorneys General should inquire as to respondent's interest in stipulated settlement promptly after receipt of a notice of defense. If stipulated settlement appears unlikely, the case should be set for hearing.

The Board's policy is that all disciplinary actions will be published.

Board policy includes **cost recovery** by stipulation in appropriate cases.

The Board's Executive Officer is authorized by statute to request an Administrative Law Judge, as part of any proposed decision in a disciplinary proceeding, to order the recovery of reasonable costs of investigation and prosecution of cases which involve specified acts of unprofessional conduct (Business and Professions Code Section 5107). This statute does not preclude the Board from seeking recovery of costs through stipulations; thus, it does not change the Board's policy of requesting and recovering costs where appropriate in stipulated settlements. Restitution to victims should not be a reason to reduce, eliminate, or stay full recovery of all reasonable costs of investigation and prosecution.

In stipulated decisions involving **revocation** (no revocation stayed), the order will generally include the requirement that respondent must reimburse the Board for all reasonable costs of investigation and prosecution prior to or upon reinstatement of respondent's revoked certificate under Section 11522 of the Government Code.

The period of **probation** is generally three years. During the probation period, licensees are required to appear in person at interviews/meetings as directed by the Board or its designated representatives to report on probation compliance.

Where an actual **suspension** is imposed, the order shall include the requirement that respondent engage in no activities for which certification is required (see model disciplinary orders). In addition, the respondent shall relinquish the certificate in question to the Board and shall notify clients regarding the suspended status of the certificate, if directed to do so by the Board.

III. EVIDENCE IN AGGRAVATION OF PENALTY

The following are among aggravating circumstances to be considered by Administrative Law Judges in providing for penalties in proposed decisions:

1. Evidence that the violation was knowingly committed and/or was premeditated.
2. Licensee has a history of prior discipline, particularly where the prior discipline is for the same or similar type of conduct.
3. Licensee's actions resulted in financial damage to his or her clients or other consumers. The amount of loss may be an additional aggravating factor.
4. Violation of Board probation.
5. Failure to comply with a final citation order.
6. Failure to comply with a notice to appear before the Board or its designated representatives.
7. Failure to comply with continuing education requirements as ordered by the Board or its designated representatives pursuant to Section 87.5.
8. Evidence that the licensee has not cooperated with the Board's investigation.
9. Misappropriation of entrusted funds or other breach of fiduciary responsibility.
10. Duration of violation(s).
11. Evidence that the licensee knew or should have known that his or her actions could harm his or her clients or other consumers.
12. Evidence that the licensee took advantage of his or her client for personal gain, especially if the licensee was able to take advantage due to the ignorance, age, or lack of sophistication of the client.

IV. EVIDENCE IN MITIGATION OF PENALTY

The following are among mitigating circumstances that may be taken into account by Administrative Law Judges in providing for penalties in proposed decisions:

1. The licensee has cooperated with the California Board of Accountancy's investigation, other law enforcement or regulatory agencies, and/or the injured parties.
2. The passage of considerable time since an act of professional misconduct occurred with no evidence of recurrence or evidence of any other professional misconduct.
3. Convincing proof of rehabilitation, including the factors in Section 99.1 as well as other relevant considerations.
4. Demonstration of remorse by the licensee.
5. Recognition by licensee of his or her wrongdoing and demonstration of corrective action to prevent recurrence.
6. Violation was corrected without monetary losses to consumers and/or restitution was made in full.
7. If violation involved multiple licensees, the relative degree of culpability of the subject licensee should be considered.

V. REHABILITATION CRITERIA

The Board's rehabilitation criteria, set forth in Section 99.1, are as follows:

When considering the denial of a certificate or permit under Section 480 of the Business and Professions Code, the suspension or revocation of a certificate or permit or restoration of a revoked certificate under Section 11522 of the Government Code, the Board, in evaluating the rehabilitation of the applicant and his or her present eligibility for a certificate or permit, will consider the following criteria:

- (1) Nature and severity of the act(s) or offense(s);
- (2) Criminal record and evidence of any act(s) committed subsequent to the act(s) or offense(s) under consideration that could also be considered as grounds for denial, suspension, or revocation;
- (3) The time that has elapsed since commission of the act(s) or offense(s) referred to in subdivision (1) or (2);
- (4) The extent to which the applicant or respondent has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant or respondent;
- (5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code;
- (6) Evidence, if any, of rehabilitation submitted by the applicant or respondent.

**CALIFORNIA
BOARD OF ACCOUNTANCY**

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(Refer to page 53 for **Index to Model Disciplinary Orders**)

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The offenses and penalties are listed chronologically by statute number in the Business and Professions Code and by regulation number in Title 16 of the California Code of Regulations. The number in brackets following each condition of probation refers to the model disciplinary order so numbered (See **Model Disciplinary Orders**). The probation terms listed under "if warranted" for each violation are to be considered, and imposed, if facts and circumstances warrant.

CALIFORNIA ACCOUNTANCY ACT: BUSINESS AND PROFESSIONS CODE, DIVISION 3, CHAPTER 1

ARTICLE 2

Section 5037(a) OWNERSHIP OF ACCOUNTANTS' WORKPAPERS

Minimum Penalty - Continuing Education Courses [22]
Maximum Penalty - Revocation stayed, [1,2,4] 3 years probation

CONDITIONS OF PROBATION:

Required: 1. Standard Conditions of Probation [5-13]

If warranted: 1. Suspension [3] with/without stay [4]
2. Supervised Practice [14]
3. Restricted Practice [16]
4. Ethics Course/Exam [19]
5. Continuing Education Courses [22]

(Reference Section 54.1)

Section 5037(b)(1)(2) RETURN OF CLIENT DOCUMENTS

Minimum Penalty - Continuing Education Courses [22]
Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [4], 3 years probation
2. Standard Conditions of Probation [5-13]

If warranted: 1. Suspension [3] with/without stay [4]
2. Supervised Practice [14]

3. Restitution [15]
4. Restricted Practice [16]
5. Engagement Letters [17]
6. Ethics Course/Exam [19]
7. Continuing Education Courses [22]
8. Community Service [26]
9. Conditions as appropriate relating to physical or mental disability or condition [30-35]

(Reference Section 68)

ARTICLE 3

**Section 5050 PRACTICE WITHOUT PERMIT;
TEMPORARY PRACTICE, OUT-OF-STATE LICENSEE**

(Applies to respondent who practices for a time without renewing license and subsequently renews or to respondent who continues to practice without a license.)

Minimum Penalty - Continuing Education Courses [22]

Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [4], 3 years probation
 2. Standard Conditions of Probation [5-13]

If warranted: 1. Suspension [3] with/without stay [4]
 2. Restricted Practice [16]
 3. Ethics Course/Exam [19]
 4. Continuing Education Courses [22]
 5. Active License Status [23]

**Sections 5055 and 5056 TITLE OF CERTIFIED PUBLIC ACCOUNTANT/
TITLE OF PUBLIC ACCOUNTANT**

(Applies to respondent who assumes or uses the title certified public accountant, CPA, public accountant, or PA without having an appropriate permit to practice.)

Minimum Penalty - Continuing Education Courses [22]

Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [4], 3 years probation
2. Standard Conditions of Probation [5-13]

If warranted: 1. Suspension [3] with/without stay [4]
2. Restricted Practice [16]
3. Ethics Course/Exam [19]
4. Continuing Education Courses [22]
5. Active License Status [23]

Section 5058 USE OF CONFUSING TITLES OR DESIGNATIONS PROHIBITED

Minimum Penalty - Continuing Education Courses [22]

Maximum Penalty - Revocation stayed with actual suspension [1-4]

CONDITIONS OF PROBATION:

Required: 1. Standard Conditions of Probation [5-13]

If warranted: 1. Suspension [3] with/without stay [4]
2. Restricted Practice [16]
3. Ethics Course/Exam [19]
4. Continuing Education Courses [22]

(Reference Section 2)

Section 5058.1 TITLES IN CONJUNCTION WITH CERTIFIED PUBLIC ACCOUNTANT OR PUBLIC ACCOUNTANT

Minimum Penalty - Continuing Education Courses [22]

Maximum Penalty - Revocation stayed with actual suspension [1-4]

CONDITIONS OF PROBATION:

Required: 1. Standard Conditions of Probation [5-13]

If warranted: 1. Suspension [3] with/without stay [4]
2. Restricted Practice [16]
3. Ethics Course/Exam [19]
4. Continuing Education Courses [22]

ARTICLE 3.5

Section 5060 NAME OF FIRM

Minimum Penalty - Continuing Education Courses [22]

Maximum Penalty - Revocation stayed with actual suspension [1-4]

CONDITIONS OF PROBATION:

Required: 1. Standard Conditions of Probation [5-13]

If warranted: 1. Suspension [3] with/without stay [4]
2. Restricted Practice [16]
3. Ethics Course/Exam [19]
4. Continuing Education Courses [22]

(Reference Section 5072)

Section 5061 COMMISSIONS

Minimum Penalty - Continuing Education [22]

Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [4], 3 years probation
2. Standard Conditions of Probation [5-13]

If warranted: 1. Suspension [3] with/without stay [4]
2. Supervised Practice [14]
3. Restitution [15]
4. Restricted Practice [16]
5. Engagement Letters [17]
6. Ethics Course/Exam [19]
7. Continuing Education Courses [22]
8. Community Service [26]

Section 5062 REPORT CONFORMING TO PROFESSIONAL STANDARDS

Minimum Penalty - Continuing Education Courses [22]

Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [4], 3 years probation
2. Standard Conditions of Probation [5-13]
3. Continuing Education Courses [22]

If warranted: 1. Suspension [3] with/without stay [4]
2. Supervised Practice [14]
3. Restitution [15]

4. Restricted Practice [16]
5. Engagement Letters [17]
6. Ethics Course/Exam [19]
7. CPA Exam [20]
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10. Notice to Clients [29]

(Reference Section 5100(j))

Section 5062.2 RESTRICTIONS ON ACCEPTING EMPLOYMENT WITH AN AUDIT CLIENT

Minimum Penalty - Revocation stayed, 30 day suspension, 3 years probation [1-4]

Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION:

Required:

1. If revocation stayed [4], probation of 3 to 5 years
2. Suspension [3]
3. Standard Conditions of Probation [5-13]

If warranted:

1. Ethics Course/Exam [19]
2. Community Service [26]

Section 5063 REPORTABLE EVENTS

Minimum Penalty - Correction of Violation and/or Continuing Education Courses [22]

Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION

Required:

1. If revocation stayed [4], 3 years probation
2. Standard Conditions of Probation [5-13]

If warranted:

1. Suspension [3] with/without stay [4]
2. Supervised Practice [14]
3. Restricted Practice [16]
4. Ethics Course/Exam [19]
5. Continuing Education Courses [22]
6. Samples – Audit, Review or Compilation [24]
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8. Community Service [26]
9. Conditions as appropriate relating to physical or mental disability or condition [30-35]

(Reference Sections 59. 60. 61)

ARTICLE 4

Section 5070.7 FAILURE TO RENEW WITHIN FIVE YEARS

Minimum Penalty - Certificate canceled immediately and returned to the Board

Maximum Penalty - CPA Exam [20]

Section 5072(a) REQUIREMENTS FOR REGISTRATION AS A PARTNERSHIP

Applies to licensee(s) in a partnership who practices for a time without partnership license (Section 5073) and subsequently renews, or to a partnership in practice without a license.

Minimum Penalty - Continuing Education Courses [22]

Maximum Penalty - Revocation of partnership/individual licenses [1-2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [4], 3 years probation
 2. Standard Conditions of Probation [5-13]

If warranted: 1. Suspension [3] with/without stay [4]
 2. Restricted Practice [16]
 3. Ethics Course/Exam [19]
 4. Continuing Education Courses [22]

(See also section on **Unlicensed Activities.**)

Section 5073(d) PARTNERSHIP APPLICATIONS (ADMISSION OR WITHDRAWAL OF PARTNER)

Minimum Penalty - Continuing Education Course [22]

Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [4], 3 years probation
 2. Standard Conditions of Probation [5-13]

If warranted: 1. Ethics Course/Exam [19]

**Section 5078 OFFICES NOT UNDER PERSONAL MANAGEMENT OF
CERTIFIED PUBLIC ACCOUNTANT OR PUBLIC ACCOUNTANT;
SUPERVISION**

Minimum Penalty - Continuing education [22] and/or require CPA or PA to develop standards for supervision, and implement a practice plan; permit practice investigation within 3 months to insure compliance [9]

Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [4], 3 years probation
 2. Standard Conditions of Probation [5-13]

If warranted: 1. Suspension [3] with/without stay [4]
 2. Supervised Practice [14]
 3. Restricted Practice [16]
 4. Ethics Course/Exam [19]
 5. Continuing Education Courses [22]

Section 5079(a)(c) NONLICENSEE OWNERSHIP OF FIRMS

Minimum Penalty - Continuing Education [22] for California licensee partners or for licensee shareholders of corporation

Maximum Penalty - Revocation of partnership or corporate registration and individual licenses

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed, 3 years probation
 2. Standard Conditions of Probation [5-13]

If warranted: 1. Suspension [3] with/without stay [4]
 2. Restricted Practice [16]
 3. Ethics Course/Exam [19]

(Reference Section 51.1)

ARTICLE 5

**Section 5081(a) REQUIREMENTS FOR ADMISSION TO
CERTIFIED PUBLIC ACCOUNTANT EXAMINATION
(ACTS DENYING ADMISSION TO EXAM)**

Minimum Penalty - Probationary conditions on initial license (if not yet licensed) or revocation, stayed with probation (if already licensed); reference

appropriate subsection of Section 5100 for applicable provisions
Maximum Penalty - Denial of admission to examination or revocation of license if issued

(Reference relevant section for discipline based upon nature of act.)

Section 5081(b)(c) REQUIREMENTS FOR ADMISSION TO CERTIFIED PUBLIC ACCOUNTANT EXAMINATION

Minimum/Maximum Penalty - Denial of admission to examination, or revocation of license if issued

Section 5088 INTERIM PRACTICE RIGHTS: OUT OF STATE CPA

Minimum/Maximum Penalty - If Board rejects application, cease practice immediately. If practice continues, see provisions on **Unlicensed Activities**.

Section 5095(a) MINIMUM NUMBER OF ATTEST SERVICES HOURS; ATTEST EXPERIENCE

Minimum Penalty - Correction of Violation
Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [4], 3 years probation
 2. Standard Conditions of Probation [5-13]
- If warranted:
1. Suspension [3] with/without stay [4]
 2. Restricted Practice [16]
 3. Ethics Course/Exam [19]
 4. CPA Exam [20]
 5. Continuing Education Courses [22]
 6. Active License Status [23]
 7. Notification to Clients/Cessation of Practice [29]

ARTICLE 5.5

Section 5097 AUDIT DOCUMENTATION

Minimum Penalty - Continuing Education Courses [22]

Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [4], 3 years probation
 2. Standard Conditions of Probation [5-13]

If warranted: 1. Suspension [3] with/without stay [4]
 2. Supervised Practice [14]
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 10. Notice to Clients [29]

(Reference Sections 68.2, 68.3, 68.4, 68.5)

ARTICLE 6

**Section 5100 DISCIPLINE IN GENERAL,
(including but not limited to that set forth in
Subsections (a) through (l) of this Section)**

Minimum Penalty - Continuing Education Courses [22]

Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [4], probation of 3 to 5 years
 2. Standard Conditions of Probation [5-13]

If warranted: 1. Suspension [3] with/without stay [4]
 2. Optional conditions which relate to underlying facts and
 circumstances; reference conditions listed in 5100 (a)-(j)

**Section 5100(a) CONVICTION OF ANY CRIME SUBSTANTIALLY RELATED TO THE
QUALIFICATIONS, FUNCTIONS AND DUTIES OF A CPA/PA**

FOR FELONY CONVICTIONS OR SEVERAL MISDEMEANOR CONVICTIONS:

Minimum Penalty - Revocation stayed. Actual suspension from practice 120 days.

Three years probation [1-4]

Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION:

Required:

1. If revocation stayed [4], probation of 3 to 5 years
2. Suspension [3]
3. Standard Conditions of Probation [5-13]
4. Cost Reimbursement if felony conviction [27]

If warranted:

1. Supervised Practice [14]
2. Restitution [15]
3. Restricted Practice [16]
4. Engagement Letters [17]
5. Ethics Course/Exam [19]
6. CPA Exam [20] or Enrolled Agents Exam [21]
7. Continuing Education Courses [22]
8. Samples - Audit, Compilation or Review [24]
9. Prohibition from Handling Funds [25]
10. Community Service [26]
11. Conditions as appropriate relating to physical or mental disability or condition [30-35]

IN THE CASE OF A SINGLE MISDEMEANOR VIOLATION, TAILOR PROBATION TO CIRCUMSTANCES; ADJUSTING THE REQUIRED CONDITIONS ACCORDINGLY AND CHOOSING APPROPRIATE WARRANTED CONDITIONS FROM THE ABOVE LIST.

Section 5100(b) FRAUD OR DECEIT IN OBTAINING LICENSE/PERMIT/REGISTRATION

Minimum Penalty - Revocation stayed with 180 days actual suspension and 3 years probation (if license was issued). Cannot apply for license for 12 months (if not yet licensed), and, if application is subsequently approved, conditional license with probation for 3 years.

Maximum Penalty - Revocation or application denied. [1-2]

CONDITIONS OF PROBATION:

Required:

1. If revocation stayed [4], probation of 3 to 5 years
2. Suspension [3]

3. Standard Conditions of Probation [5-13]
4. Cost Reimbursement [27]

- If warranted:
1. Ethics Course/Exam [19]
 2. Continuing Education Courses [22]

Section 5100(c) DISHONESTY, FRAUD, GROSS NEGLIGENCE, OR REPEATED ACTS OF NEGLIGENCE IN THE PRACTICE OF PUBLIC ACCOUNTANCY OR THE PERFORMANCE OF BOOKKEEPING

Minimum Penalty - Revocation stayed [1-2, 4], 3 years probation

Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [4], probation of 3 to 5 years
 2. Standard Conditions of Probation [5-13]
 3. Cost Reimbursement [27]

- If warranted:
1. Supervised Practice [14]
 2. Restitution [15]
 3. Restricted Practice [16]
 4. Ethics Course/Exam [19]
 5. CPA Exam [20]
 6. Continuing Education Courses [22]
 7. Samples - Audit, Review or Compilation [24]
 8. Prohibition from Handling Funds [25]
 9. Community Service [26]
 10. Notification to Clients [29]
 11. Conditions as appropriate relating to physical or mental disability or condition [30-35]

Section 5100(d) CANCELLATION, REVOCATION OR SUSPENSION BY ANY OTHER STATE OR FOREIGN COUNTRY

Minimum Penalty - Revocation stayed [1,2, 4], probation 3 years

Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [4], probation of 3 to 5 years
 2. Standard Conditions of Probation [5-13]

- If warranted (include those related to underlying offense(s)):
1. Suspension [3] with/without stay [4]

2. Supervised Practice [14]
3. Restitution [15]
4. Restricted Practice [16]
5. Ethics Course/Exam [19]
6. CPA Exam [20] or Enrolled Agents Exam [21]
7. Continuing Education Courses [22]
8. Samples - Audit, Review or Compilation [24]
9. Prohibition from Handling Funds [25]
10. Community Service [26]
11. Notice to Clients [29]
12. Conditions as appropriate relating to physical or mental disability or condition [30-35]

Section 5100(e) VIOLATION OF PROVISIONS OF SECTION 5097

Minimum Penalty - Continuing Education Courses [22]
 Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [4], 3 years probation
 2. Standard Conditions of Probation [5-13]
 3. Continuing Education Courses [22]

If warranted: 1. Suspension [3] with/without stay [4]
 2. Supervised Practice [14]
 3. Restricted Practice [16]
 4. Library Reference Material [18]
 5. Ethics Course/Exam [19]
 6. CPA Exam [20]
 7. Samples - Audits, Review or Compilation [24]
 8. Community Service [26]
 9. Notice to Clients [29]

Section 5100(f) VIOLATIONS OF PROVISIONS OF SECTION 5120

Section 5120 states "Any person who violates any of the provisions of Article 3 (commencing with Section 5050) is guilty of a misdemeanor, punishable by imprisonment for not more than six months, or by a fine of not more than one thousand dollars, or both." Whenever the Board has reason to believe that any person is liable for punishment under this article, the Board, or its designated representatives, may certify the facts to the appropriate enforcement officer of the city or county where the alleged violation had taken place and the officer may cause appropriate proceedings to be brought.

Violations of Article 3 include:

5050 and 5051	PRACTICE WITHOUT PERMIT/" PUBLIC ACCOUNTANCY" DEFINED
5055 and 5056	TITLE OF CERTIFIED PUBLIC ACCOUNTANT/ PUBLIC ACCOUNTANT
5058	USE OF CONFUSING TITLES OR DESIGNATIONS PROHIBITED
5060	NAME OF FIRM
5061	COMMISSIONS
5062	REPORT CONFORMING TO PROFESSIONAL STANDARDS

Minimum/Maximum Penalty - See specific statute/regulation violated for recommended penalty

Section 5100(g) WILLFUL VIOLATION OF THE ACCOUNTANCY ACT, OR A RULE OR REGULATION PROMULGATED BY THE BOARD

Minimum/Maximum Penalty - See specific statute or regulation violated for recommended penalty

Section 5100(h) SUSPENSION OR REVOCATION OF THE RIGHT TO PRACTICE BEFORE ANY GOVERNMENTAL BODY OR AGENCY

Minimum Penalty - Revocation stayed [1-2, 4], 3 years probation

Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [4], 3 years probation
 2. Standard Conditions of Probation [5-13]

If warranted (include those related to underlying offense(s)):

1. Suspension [3] with/without stay [4]
2. Supervised Practice [14]
3. Restitution [15]
4. Restricted Practice [16]
5. Ethics Course/Exam [19]
6. CPA Exam [20] or Enrolled Agents Exam [21]
7. Continuing Education Courses [22]
8. Samples - Audit, Review or Compilation [24]
9. Prohibition from Handling Funds [25]
10. Community Service [26]

11. Notice to Clients [29]
12. Conditions as appropriate relating to physical or mental disability or condition [30-35]

Section 5100(i) FISCAL DISHONESTY OR BREACH OF FIDUCIARY RESPONSIBILITY OF ANY KIND

Minimum Penalty - Revocation stayed, 30 day suspension, 3 years probation [1-4]
Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [4], probation of 3 to 5 years
 2. Suspension [3]
 3. Standard Conditions of Probation [5-13]
 4. Cost Reimbursement if violation involves fiscal dishonesty [27]
- If warranted:
1. Supervised Practice [14]
 2. Restitution [15]
 3. Restricted Practice [16]
 4. Ethics Course/Exam [19]
 5. CPA Exam [20] or Enrolled Agents Exam [21]
 6. Continuing Education Courses [22]
 7. Prohibition from Handling Funds [25]
 8. Community Service [26]
 9. Notice to Clients [29]
 10. Conditions as appropriate relating to physical or mental disability or condition [30-35]

Section 5100(j) KNOWING PREPARATION, PUBLICATION OR DISSEMINATION OF FALSE, FRAUDULENT, OR MATERIALLY MISLEADING FINANCIAL STATEMENTS, REPORTS, OR INFORMATION

Minimum Penalty - Revocation stayed, 60 days suspension, 3 years probation [1-4]
Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [4], 3 to 5 years probation
 2. Suspension [3]
 3. Standard Conditions of Probation [5-13]
 4. Cost Reimbursement [27]
- If warranted:
1. Supervised Practice [14]
 2. Restitution [15]

3. Restricted Practice [16]
4. Engagement Letters [17]
5. Ethics Course/Exam [19]
6. CPA Exam [20] or Enrolled Agents Exam [21]
7. Continuing Education Courses [22]
8. Samples - Audit, Review or Compilation [24]
9. Community Service [26]
10. Notice to Clients [29]
11. Conditions as appropriate relating to physical or mental disability or condition [30-35]

Section 5100(k) EMBEZZLEMENT, THEFT, MISAPPROPRIATION OF FUNDS OR PROPERTY, OR OBTAINING MONEY, PROPERTY OR OTHER VALUABLE CONSIDERATION BY FRAUDULENT MEANS OR FALSE PRETENSES

Minimum Penalty - Revocation stayed, 90 day suspension, 3 years probation [1-4]
Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION:

Required:

1. If revocation stayed [4], probation of 3 to 5 years
2. Suspension [3]
3. Standard Conditions of Probation [5-13]
4. Cost Reimbursement [27]

If warranted:

1. Supervised Practice [14]
2. Restitution [15]
3. Restricted Practice [16]
4. Ethics Course/Exam [19]
5. CPA Exam [20] or Enrolled Agents Exam [21]
6. Continuing Education Courses [22]
7. Prohibition from Handling Funds [25]
8. Notice to Clients [29]
9. Conditions as appropriate relating to physical or mental disability or condition [30-35]

Section 5100(l) DISCIPLINE, PENALTY, OR SANCTION BY THE PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD OR SECURITIES AND EXCHANGE COMMISSION

Minimum Penalty - Revocation stayed [1-2, 4], 3 years probation
Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [4], 3 years probation
 2. Standard Conditions of Probation [5-13]

If warranted (include those related to underlying offense(s)):

1. Suspension [3] with/without stay [4]
2. Supervised Practice [14]
3. Restitution [15]
4. Restricted Practice [16]
5. Ethics Course/Exam [19]
6. CPA Exam [20] or Enrolled Agents Exam [21]
7. Continuing Education Courses [22]
8. Samples - Audit, Review or Compilation [24]
9. Prohibition from Handling Funds [25]
10. Community Service [26]
11. Notice to Clients [29]
12. Conditions as appropriate relating to physical or mental disability or condition [30-35]

Section 5101 DISCIPLINE OF PARTNERSHIP

Minimum Penalty - Probation; require CPA or PA partners to develop standards for supervision, and implement a practice plan; permit practice investigation within 3 months to ensure compliance [9]

Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION:

- Required:
1. Standard Conditions of Probation [5-13]

- If warranted:
1. Supervised Practice [14]
 2. Restitution [15]
 3. Restricted Practice [16]
 4. Engagement Letters [17]

Section 5104 RELINQUISHMENT OF CERTIFICATE OR PERMIT

Minimum/Maximum Penalty - Revocation [1-2]

Section 5105 DELINQUENCY IN PAYMENT OF RENEWAL FEE

Minimum Penalty - Relinquish certificate [28] which will be reissued under Section 5070.6 guidelines (payment of renewal and delinquency fees)

and compliance with continuing education guidelines)
Maximum Penalty - Revocation [1-2]

**Section 5110(a) ACTS CONSTITUTING CAUSE FOR BOARD'S DENIAL OF
EXAM APPLICATION OR ADMISSION, VOIDANCE OF GRADES,
OR DENIAL OF LICENSE APPLICATION OR REGISTRATION**

Minimum/Maximum Penalty - Denial of admission to examination, or revocation of license
if issued

ARTICLE 7

Sections 5120/5121 VIOLATIONS AS MISDEMEANOR/EVIDENCE OF VIOLATION

See Section 5100(f) and section on **Unlicensed Activities**.

ARTICLE 9

Section 5152 CORPORATION REPORTS

Minimum Penalty - Continuing Education for officers of corporation [22]
Maximum Penalty - Suspend corporate accountancy registration and/or individual
licenses for 90 days [3]

**Section 5152.1 ACCOUNTANCY CORPORATION
RENEWAL OF PERMIT TO PRACTICE**

Minimum Penalty - Continuing Education for officers of corporation [22]
Maximum Penalty - Suspend corporate accountancy registration and/or individual
licenses for 90 days [3]

**Section 5154 DIRECTORS, SHAREHOLDERS, AND OFFICERS
MUST BE LICENSED**

Minimum Penalty - Continuing Education Courses [22]
Maximum Penalty - Revocation of corporate registration [1-2] and discipline of individual

licenses

CONDITIONS OF PROBATION:

Required: 1. Standard Conditions of Probation [5-13]

If warranted: 1. Suspension [3] with/without stay [4]
2. Ethics Course/Exam [19]

Section 5155 DISQUALIFIED SHAREHOLDER NONPARTICIPATION

Minimum Penalty - Continuing Education Courses [22]

Maximum Penalty - Revocation of individual and corporate license [1-2]

CONDITIONS OF PROBATION:

Required: 1. Standard Conditions of Probation [5-13]

If warranted: 1. Suspension [3] with/without stay [4]
2. Ethics Course/Exam [19]

Section 5156 UNPROFESSIONAL CONDUCT (ACCOUNTANCY CORPORATION)

Minimum Penalty - Continuing Education Courses [22] for licensee directors,
shareholders, and/or officers of corporation

Maximum Penalty - Revocation of individual and corporate licenses [1-2]

CONDITIONS OF PROBATION:

Required: 1. Standard Conditions of Probation [5-13]

If warranted: 1. Suspension [3] with/without stay [4]
2. Ethics Course/Exam [19] for licensee directors, shareholders and/or
officers
3. Community Service [26]

Note: An accountancy corporation is bound by the same regulations as individual respondents. See specific statute or regulation violated for recommended penalty.

**Section 5158 PRACTICE OF PUBLIC ACCOUNTANCY; MANAGEMENT
(ACCOUNTANCY CORPORATION)**

Minimum Penalty - Continuing Education. Require CPA or PA to develop management plan; permit practice investigation within 3 months to ensure

compliance with management requirement and plan [9,22]
Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION:

Required: 1. Standard Conditions of Probation [5-13]

If warranted: 1. Supervised Practice [14]
2. Restitution [15]
3. Restricted Practice [16]
4. Engagement Letters [17]
5. Ethics Course/Exam [19]
6. Conditions as appropriate relating to physical or mental disability or condition [30-35]

**CALIFORNIA BOARD OF ACCOUNTANCY
REGULATIONS
TITLE 16 CALIFORNIA CODE OF REGULATIONS**

ARTICLE 1: GENERAL

SECTION 3 NOTIFICATION OF CHANGE OF ADDRESS

Minimum Penalty - Continuing Education Courses [22]

Maximum Penalty - 90 day Suspension [3]

SECTION 5 OBSERVANCE OF RULES

Minimum Penalty - Continuing Education Courses [22]

Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [1-2, 4], 3 years probation

2. Standard Conditions of Probation [5-13]

If warranted: 1. Ethics Course/Exam [19]

2. Continuing Education Courses [22]

3. Samples - Audit, Review or Compilation [24]

4. Community Service [26]

Note: Reference the specific regulation for appropriate discipline.

ARTICLE 2: EXAMINATIONS

SECTION 8.2 REQUIREMENTS FOR ISSUANCE OF THE AUTHORIZATION TO TEST

Minimum Penalty -	Probationary conditions on initial license (if not yet licensed) or revocation, stayed with probation (if already licensed); reference appropriate subsection of Section 5100 for applicable provisions
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Maximum Penalty - Denial of admission to examination or revocation of license if issued

ARTICLE 9: RULES OF PROFESSIONAL CONDUCT

SECTION 50 CLIENT NOTIFICATION

Minimum Penalty – Correction of Violation

Maximum Penalty – Revocation stayed, suspension, 3 years probation [1-4]

CONDITIONS OF PROBATION

Required: 1. Standard Conditions of Probation [5-13]

If warranted: 1. Suspension [3] with/without stay [4]
 2. Ethics Course/Examination [19]

SECTION 51 FIRMS WITH NONLICENSEE OWNERS

Minimum Penalty – Correction of Violation

Maximum Penalty – Revocation stayed, suspension, 3 years probation [1-4]

CONDITIONS OF PROBATION

Required: 1. Standard Conditions of Probation [5-13]

If warranted: 1. Suspension [3] with/without stay [4]
 2. Restricted Practice [16]
 3. Ethics Course/Examination [19]

SECTION 51.1 NOTIFICATION OF NON-LICENSEE OWNERSHIP

Minimum Penalty - Continuing Education [22] for California licensee partners or
for licensee shareholders of corporation

Maximum Penalty - Revocation of partnership or corporate registration and individual
licenses

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed, 3 years probation
 2. Standard Conditions of Probation [5-13]

If warranted: 1. Suspension [3] with/without stay [4]
 2. Ethics Course/Exam [19]

SECTION 52 RESPONSE TO BOARD INQUIRY

Minimum Penalty - Continuing Education Courses [22]

Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [1-2,4], 3 years probation
 2. Standard Conditions of Probation [5-13]

If warranted: 1. Ethics Course/Exam [19]
 2. Continuing Education Courses [22]
 3. Community Service [26]

SECTION 53 DISCRIMINATION PROHIBITED

Minimum Penalty - Continuing Education Courses [22]

Maximum Penalty - Revocation stayed, 3 years probation [1-2,4]

CONDITIONS OF PROBATION:

Required: 1. Standard Conditions of Probation [5-13]

If warranted: 1. Ethics Course/Exam [19]
 2. Continuing Education Courses [22]

SECTION 54.1 DISCLOSURE OF CONFIDENTIAL INFORMATION PROHIBITED

Minimum Penalty - Continuing Education Courses [22]

Maximum Penalty - Revocation stayed; 90 day suspension, 3 years probation [1-4]

CONDITIONS OF PROBATION:

Required: 1. 3 years probation
 2. Standard Conditions of Probation [5-13]

If warranted: 1. Suspension [3]
 2. Supervised Practice [14]
 3. Ethics Course/Exam [19]
 4. Continuing Education Courses [22]
 5. Notice to Clients [29]

SECTION 54.2 RECIPIENTS OF CONFIDENTIAL INFORMATION

Minimum Penalty - Continuing Education Courses [22]

Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed, [1-2, 4], 3 years probation
 2. Standard Conditions of Probation [5-13]

If warranted: 1. Supervised Practice [14]
 2. Ethics Course/Exam [19]
 3. Continuing Education Courses [22]

SECTION 55 PERMISSION TO USE NAME

Minimum Penalty - Continuing Education Courses [22]

Maximum Penalty - Revocation stayed, 3 years probation [1-2,4]

CONDITIONS OF PROBATION:

Required: 1. 3 years probation
 2. Standard Conditions of Probation [5-13]

If warranted: 1. Supervised Practice [14]
 2. Restricted Practice [16]
 3. Engagement Letters [17]
 4. Ethics Course/Exam [19]
 5. Continuing Education Courses [22]

SECTION 56 COMMISSIONS – BASIC DISCLOSURE REQUIREMENT

Minimum Penalty – Correction of Violation and/or Continuing Education Courses [22]

Maximum Penalty – Revocation [1-2]

CONDITIONS OF PROBATION

Required: 1. If revocation stayed [4], 3 years probation
 2. Standard Conditions of Probation [5-13]

If warranted: 1. Suspension [3] with/without stay [4]
 2. Supervised Practice [14]
 3. Restitution [15]
 4. Restricted Practice [16]
 5. Ethics Course/Exam [19]
 6. Continuing Education Courses [22]

SECTION 56.1 COMMISSIONS – PROFESSIONAL SERVICES PROVIDED TO CLIENT

Minimum Penalty – Correction of Violation and/or Continuing Education Courses [22]

Maximum Penalty – Revocation [1-2]

CONDITIONS OF PROBATION

Required: 1. If revocation stayed [4], 3 years probation
 2. Standard Conditions of Probation [5-13]

If warranted: 1. Suspension [3] with/without stay [4]
 2. Supervised Practice [14]
 3. Restitution [15]
 4. Restricted Practice [16]
 5. Ethics Course/Exam [19]
 6. Continuing Education Courses [22]

SECTION 57 INCOMPATIBLE OCCUPATIONS AND CONFLICT OF INTEREST

Minimum Penalty - Continuing Education Courses [22]

Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [1-2,4], 3 years probation
 2. Standard Conditions of Probation [5-13]

If warranted: 1. Suspension [3] with/without stay [4]
 2. Supervised Practice [14]
 3. Restricted Practice [16]
 4. Engagement Letters [17]
 5. Ethics Course/Exam [19]
 6. Continuing Education Courses [22]
 7. Prohibition from Handling Funds [25]
 8. Community Service [26]

SECTION 58 COMPLIANCE WITH STANDARDS

Minimum Penalty - Continuing Education Courses [22]

Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [1-2,4], 3 years probation
 2. Standard Conditions of Probation [5-13]

If warranted: 1. Suspension [3] with/without stay [4]

2. Supervised Practice [14]
3. Restricted Practice [16]
4. Engagement Letters [17]
5. Ethics Course/Exam [19]
6. CPA Exam [20]
7. Continuing Education Courses [22]
8. Samples - Audit, Review or Compilation [24]

SECTION 59 REPORTING OF RESTATEMENTS

Minimum Penalty - Correction of Violation and/or Continuing Education Courses [22]

Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION

- Required:
1. If revocation stayed [4], 3 years probation
 2. Standard Conditions of Probation [5-13]

- If warranted:
1. Suspension [3] with/without stay [4]
 2. Supervised Practice [14]
 3. Restricted Practice [16]
 4. Ethics Course/Exam [19]
 5. Continuing Education Courses [22]
 6. Community Service [26]

(Reference Section 5063)

SECTION 60 REPORTING OF INVESTIGATIONS BY THE PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

Minimum Penalty - Correction of Violation and/or Continuing Education Courses [22]

Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION

- Required:
1. If revocation stayed [4], 3 years probation
 2. Standard Conditions of Probation [5-13]

- If warranted:
1. Suspension [3] with/without stay [4]
 2. Supervised Practice [14]
 3. Restricted Practice [16]
 4. Ethics Course/Exam [19]
 5. Continuing Education Courses [22]
 6. Community Service [26]

(Reference Section 5063)

SECTION 61 THE REPORTING OF SETTLEMENTS, ARBITRATION AWARDS, AND JUDGMENTS

Minimum Penalty - Correction of Violation and/or Continuing Education Courses [22]
Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION

Required: 1. If revocation stayed [4], 3 years probation
 2. Standard Conditions of Probation [5-13]

If warranted: 1. Suspension [3] with/without stay [4]
 2. Supervised Practice [14]
 3. Restricted Practice [16]
 4. Engagement Letters [17]
 5. Ethics Course/Exam [19]
 6. Continuing Education Courses [22]
 7. Community Service [26]

(Reference Section 5063)

SECTION 62 CONTINGENT FEES

Minimum Penalty - Correction of Violation
Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [1-2,4], 3 years probation
 2. Standard Conditions of Probation [5-13]

If warranted: 1. Suspension [3] with/without stay [4]
 2. Supervised Practice [14]
 3. Restitution [15]
 4. Restricted Practice [16]
 5. Engagement Letters [17]
 6. Ethics Course/Exam [19]
 7. Continuing Education Courses [22]
 8. Community Service [26]

SECTION 63 ADVERTISING

Minimum Penalty - Correction of Violation and/or Continuing Education Courses [22]
Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [1-2,4], 3 years probation
 2. Standard Conditions of Probation [5-13]

If warranted: 1. Suspension [3] with/without stay [4]
 2. Ethics Course/Exam [19]
 3. Community Service [26]

SECTION 65 INDEPENDENCE

Minimum Penalty - Correction of Violation and/or Continuing Education Courses [22]

Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [1-2,4], probation of 3 to 5 years
 2. Standard Conditions of Probation [5-13]

If warranted: 1. Suspension [3] with/without stay [4]
 2. Supervised Practice [14]
 3. Restitution [15]
 4. Restricted Practice [16]
 5. Engagement Letters [17]
 6. Ethics Course/Exam [19]
 7. CPA Exam [20]
 8. Samples - Audit, Review or Compilation [24]

SECTION 67 APPROVAL OF USE OF FICTITIOUS NAME

Minimum Penalty - Correction of Violation

Maximum Penalty - Revocation stayed, 90 day suspension, 3 years probation [1-4]

CONDITIONS OF PROBATION:

Required: 1. Standard Conditions of Probation [5-13]

If warranted: 1. Ethics Course/Exam [19]
 2. Community Service [26]

SECTION 68 RETENTION OF CLIENT'S RECORDS

Minimum Penalty - Continuing Education Courses [22]

Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [1-2,4], 3 years probation
 2. Standard Conditions of Probation [5-13]

If warranted: 1. Suspension [3] with/without stay [4]
 2. Supervised Practice [14]
 3. Restitution [15]
 4. Restricted Practice [16]
 5. Engagement Letters [17]
 6. Ethics Course/Exam [19]
 7. Continuing Education Courses [22]
 8. Community Service [26]
 9. Conditions as appropriate relating to physical or mental disability or
 condition [30-35]

SECTION 68.1 WORKING PAPERS DEFINED; RETENTION

Minimum Penalty - Continuing Education Courses [22]

Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [1-2,4], 3 years probation
 2. Standard Conditions of Probation [5-13]

If warranted: 1. Suspension [3] with/without stay [4]
 2. Restitution [15]
 3. Restricted Practice [16]
 4. Engagement Letters [17]
 5. Ethics Course/Exam [19]
 6. Continuing Education Courses [22]
 7. Community Service [26]
 8. Conditions as appropriate relating to physical or mental disability or
 condition [30-35]

SECTION 68.2 COMPONENTS OF AUDIT DOCUMENTATION

Minimum Penalty - Continuing Education Courses [22]

Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [4], 3 years probation

2. Standard Conditions of Probation [5-13]
3. Continuing Education Courses [22]

- If warranted:
1. Suspension [3] with/without stay [4]
 2. Supervised Practice [14]
 3. Restricted Practice [16]
 4. Ethics Course/Exam [19]
 5. CPA Exam [20]
 6. Samples - Audits, Review or Compilation [24]
 7. Community Service [26]
 8. Notice to Clients [29]

(Reference Section 5097)

SECTION 68.3 RETENTION PERIOD FOR AUDIT DOCUMENTATION

Minimum Penalty - Continuing Education Courses [22]
 Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [4], 3 years probation
 2. Standard Conditions of Probation [5-13]
 3. Continuing Education Courses [22]

- If warranted:
1. Suspension [3] with/without stay [4]
 2. Supervised Practice [14]
 3. Restricted Practice [16]
 4. Library Reference Material [18]
 5. Ethics Course/Exam [19]
 6. CPA Exam [20]
 7. Samples - Audits, Review or Compilation [24]
 8. Community Service [26]
 9. Notice to Clients [29]

(Reference Section 5097)

SECTION 68.4 CHANGES IN AUDIT DOCUMENTATION AFTER ISSUANCE OF REPORT

Minimum Penalty - Continuing Education Courses [22]
 Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [4], 3 years probation

2. Standard Conditions of Probation [5-13]
3. Continuing Education Courses [22]

- If warranted:
1. Suspension [3] with/without stay [4]
 2. Supervised Practice [14]
 3. Restricted Practice [16]
 4. Library Reference Material [18]
 5. Ethics Course/Exam [19]
 6. CPA Exam [20]
 7. Samples - Audits, Review or Compilation [24]
 8. Community Service [26]
 9. Notice to Clients [29]

(Reference Section 5097)

SECTION 68.5 AUDIT DOCUMENTATION RETENTION AND DESTRUCTION POLICY

Minimum Penalty - Continuing Education Courses [22]

Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION:

- Required:
1. If revocation stayed [4], 3 years probation
 2. Standard Conditions of Probation [5-13]
 3. Continuing Education Courses [22]

- If warranted:
1. Suspension [3] with/without stay [4]
 2. Supervised Practice [14]
 3. Restricted Practice [16]
 4. Library Reference Material [18]
 5. Ethics Course/Exam [19]
 6. CPA Exam [20]
 7. Samples - Audits, Review or Compilation [24]
 8. Community Service [26]
 9. Notice to Clients [29]

(Reference Section 5097)

SECTION 69 CERTIFICATION OF APPLICANT'S EXPERIENCE

Minimum Penalty - Correction of Violation

Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [1-2,4], 3 years probation
 2. Standard Conditions of Probation [5-13]

If warranted: 1. Suspension [3] with/without stay [4]
 2. Supervised Practice [14]
 3. Ethics Course/Exam [19]
 4. Community Service [26]

ARTICLE 11: ACCOUNTANCY CORPORATION RULES

**SECTION 75.8 SECURITY FOR CLAIMS AGAINST
 AN ACCOUNTANCY CORPORATION**

Minimum Penalty - Correction of Violation
Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [4], probation of 3 to 5 years
 2. Standard Conditions of Probation [5-13]
 3. Cost Reimbursement [27]

If warranted: 1. Supervised Practice [14]
 2. Restitution [15]
 3. Restricted Practice [16]
 4. Ethics Course/Exam [19]
 5. Continuing Education Courses [22]
 6. Samples - Audit, Review or Compilation [24]
 7. Prohibition from Handling Funds [25]
 8. Community Service [26]
 9. Notification to Clients [29]

SECTION 75.9 SHARES: OWNERSHIP AND TRANSFER

Minimum Penalty - Correction of Violation
Maximum Penalty - Revocation stayed, 90 day suspension, 3 years probation [1-4]

CONDITIONS OF PROBATION:

Required: 1. Standard Conditions of Probation [5-13]

- If warranted:
1. Suspension [3] with/without stay [4]
 2. Restricted Practice [16]
 3. Ethics Course/Exam [19]

SECTION 75.11(b) CERTIFICATION OF REGISTRATION; CONTINUING VALIDITY; NOTIFICATION OF NAME AND ADDRESS CHANGES

Minimum Penalty - Correction of Violation

Maximum Penalty - Revocation stayed, 90 day suspension, 3 years probation [1-4]

CONDITIONS OF PROBATION:

Required: 1. Standard Conditions of Probation [5-13]

- If warranted:
1. Suspension [3] with/without stay [4]
 2. Restricted Practice [16]
 3. Ethics Course/Exam [19]

ARTICLE 12: CONTINUING EDUCATION RULES

SECTION 87 BASIC REQUIREMENTS (Continuing Education)

Minimum Penalty – Correction of Violation and/or Continuing Education Courses [22]

Maximum Penalty – Revocation [1-2]

CONDITIONS OF PROBATION

Required:

1. If revocation stayed [4], 3 years probation
2. Standard Conditions of Probation [5-13]

- If warranted:
1. Suspension [3] with/without stay [4]
 2. Supervised Practice [14]
 3. Restricted Practice [16]
 4. Ethics Course/Exam [19]
 5. Continuing Education Courses [22]
 6. Samples – Audit, Review or Compilation [24]

SECTION 87.5 ADDITIONAL CONTINUING EDUCATION REQUIREMENTS

Minimum Penalty - Correction of Violation

Maximum Penalty - Revocation stayed, 3 years probation [1-2,4]

CONDITIONS OF PROBATION:

Required: 1. Standard Conditions of Probation [5-13]

If warranted: 1. Ethics Course/Exam [19]
2. Continuing Education Courses [22]
3. Active License Status [23]
4. Samples - Audit, Review or Compilation [24]

SECTION 87.6 RECORDS REVIEW CONTINUING EDUCATION REQUIREMENTS

Minimum Penalty - Correction of Violation

Maximum Penalty - Revocation stayed, 3 years probation [1-2,4]

CONDITIONS OF PROBATION:

Required: 1. Standard Conditions of Probation [5-13]

If warranted: 1. Ethics Course/Exam [19]
2. Continuing Education Courses [22]
3. Samples - Audit, Review or Compilation [24]

**SECTION 87.7(a) CONTINUING EDUCATION IN THE ACCOUNTANCY ACT,
BOARD RULES, AND OTHER PROFESSIONAL CONDUCT**

Minimum Penalty - Correction of Violation

Maximum Penalty - Revocation stayed, 3 years probation [1 –2, 4]

CONDITIONS OF PROBATION

Required: 1. Standard Conditions of Probation [5-13]
2. Ethics Course/Exam [19]

If warranted: 1. Continuing Education Courses [22]

SECTION 89 CONTROL AND REPORTING

Minimum Penalty - Correction of Violation

Maximum Penalty - Revocation [1-2]

CONDITIONS OF PROBATION:

Required: 1. If revocation stayed [1-2, 4], 3 years probation

2. Standard Conditions of Probation [5-13]

If warranted:

1. Ethics Course/Exam [19]
2. Continuing Education Courses [22]

SECTION 89.1 REPORTS

Minimum Penalty - Correction of Violation

Maximum Penalty - Revocation stayed, 3 years probation [1-2,4]

CONDITIONS OF PROBATION:

Required:

1. Standard Conditions of Probation [5-13]

If warranted:

1. Ethics Course/Exam [19]
2. Continuing Education Courses [22]
3. Samples - Audit, Review or Compilation [24]

SECTION 90 EXCEPTIONS AND EXTENSIONS

Minimum Penalty – Continuing Education [22]

Maximum Penalty – Revocation [1-2]

CONDITIONS OF PROBATION

Required:

1. If revocation stayed [4] 3 years probation
2. Standard Conditions of Probation [5-13]

If warranted:

1. Suspension [3] with/without stay [4]
2. Supervised Practice [14]
3. Restricted Practice [16]
4. Ethics Course/Exam [19]
5. Continuing Education Courses [22]
6. Samples – Audit, Review or Compilation [24]

ARTICLE 12.5: CITATIONS AND FINES

SECTION 95.4 FAILURE TO COMPLY WITH CITATION

Minimum Penalty - Compliance with Citation Abatement Order and/or Fine as issued

Maximum Penalty - Revocation stayed, 3 years probation [1-2,4]

CONDITIONS OF PROBATION:

- Required:
1. Standard Conditions of Probation [5-13]
 2. Restitution [15]
 3. Compliance with Citation Abatement Order and/or Fine

If warranted: Failure to comply with a final order in a citation may result in **an additional citation and fine** being issued under Section 5100(f); or an accusation may be filed, possibly resulting in probation, suspension, and/or revocation of license(s).

VIOLATION OF PROBATION

Minimum penalty - Suspension and/or extension of probation [3]
Maximum penalty - Vacate stay order and impose penalty that was previously stayed; and/or revoke, separately and severally, for violation of probation and/or for any additional offenses. [1-4]

The maximum penalty is appropriate for repeated **similar** offenses, or for probation violations indicating a cavalier or recalcitrant attitude. If the probation violation is due in part to the commission of additional offense(s), additional penalties shall be imposed according to the nature of the offense; and the probation violation shall be considered as an aggravating factor in imposing a penalty for those offenses.

UNLICENSED ACTIVITIES

If any unlicensed individual or firm violates, or is suspected of violating, any of the following Business and Professions Code sections, the matter may be referred to the Division of Investigation and if the allegation is confirmed, to the District Attorney or other appropriate law enforcement officer for prosecution.

Section 5050
Section 5051
Section 5055
Section 5056
Section 5058
Section 5071
Section 5072
Section 5088

Board Section 95.6 also provides the authority for the Executive Officer to issue citations and fines from \$100 to \$2500 and an order of abatement against any person defined in Business and Professions Code Section 5035 who is acting in the capacity of a licensee under the jurisdiction of the Board.

Section 5120 provides that any person who violates any provisions of Article 3 is guilty of a misdemeanor and can be imprisoned for not more than 6 months or assessed a fine of not more than \$1,000 or both. Injunctions may be requested (see Section 5122 immediately following).

INJUNCTIONS

Section 5122 provides that "Whenever in the judgment of the Board (or with its approval, in the judgment of the Administrative Committee), any person has engaged, or is about to engage, in any acts or practices which constitute, or will constitute, an offense against this chapter, the Board may make application to the appropriate court for an order enjoining the acts or practices, and upon showing by the Board that the person has engaged, or is about to engage, in any such acts or practices, an injunction, restraining order, or such other order that may be appropriate shall be granted by the court." This section applies to licensees and unlicensed persons.

**CALIFORNIA
BOARD OF ACCOUNTANCY**

**Index to Model Disciplinary Orders and
Conditions of Probation**

(Refer to page 9 for Index to Disciplinary Guidelines)

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VI. MODEL DISCIPLINARY ORDERS

1. **Revocation - Single Cause:**

_____ License No. _____ issued
(Ex: Certified Public Accountant) (Ex: 00000)

to respondent _____ is revoked.
(Name)

2. **Revocation - Multiple Causes:**

_____ License No. _____ issued to respondent _____ is revoked
pursuant to Determination(s) of Issues _____ separately and for all of them.

3. **Suspension:**

_____ License No. _____ issued to respondent _____ is suspended
for _____. During the period of suspension the respondent shall engage in no
activities for which certification as a Certified Public Accountant or Public Accountant
is required as described in Business and Professions Code, Division 3, Chapter 1,
Section 5051.

4. **Standard Stay Order:**

However, _____ (revocation/suspension) _____ is stayed and respondent is placed on
probation for _____ years upon the following terms and conditions:

STANDARD CONDITIONS OF PROBATION (TO BE INCLUDED IN ALL CASES OF PROBATION)

5. **Obey All Laws**

Respondent shall obey all federal, California, other states' and local laws, including
those rules relating to the practice of public accountancy in California.

6. Submit Written Reports

Respondent shall submit, within 10 days of completion of the quarter, written reports to the Board on a form obtained from the Board. The respondent shall submit, under penalty of perjury, such other written reports, declarations, and verification of actions as are required. These declarations shall contain statements relative to respondent's compliance with all the terms and conditions of probation. Respondent shall immediately execute all release of information forms as may be required by the Board or its representatives.

7. Personal Appearances

Respondent shall, during the period of probation, appear in person at interviews/meetings as directed by the Board or its designated representatives, provided such notification is accomplished in a timely manner.

8. Comply With Probation

Respondent shall fully comply with the terms and conditions of the probation imposed by the Board and shall cooperate fully with representatives of the California Board of Accountancy in its monitoring and investigation of the respondent's compliance with probation terms and conditions.

9. Practice Investigation

Respondent shall be subject to, and shall permit, a practice investigation of the respondent's professional practice. Such a practice investigation shall be conducted by representatives of the Board, provided notification of such review is accomplished in a timely manner.

10. Comply With Citations

Respondent shall comply with all final orders resulting from citations issued by the California Board of Accountancy.

11. Tolling of Probation for Out-of-State Residence/Practice

In the event respondent should leave California to reside or practice outside this state, respondent must notify the Board in writing of the dates of departure and return. Periods of non-California residency or practice outside the state shall not apply to reduction of the probationary period, or of any suspension. No obligation imposed herein, including requirements to file written reports, reimburse the Board costs, and make restitution to consumers, shall be suspended or otherwise affected by such periods of out-of-state residency or practice except at the written direction of the Board.

12. Violation of Probation

If respondent violates probation in any respect, the Board, after giving respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an accusation or a petition to revoke probation is filed against respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

13. Completion of Probation

Upon successful completion of probation, respondent's license will be fully restored.

**OPTIONAL CONDITIONS OF PROBATION
(To Be Included In Cases Where Appropriate)**

14. Supervised Practice

Within thirty days of the effective date of this decision, respondent shall submit to the Board or its designee for its prior approval a plan of practice that shall be monitored by another CPA or PA who provides periodic reports to the Board or its designee. Respondent shall pay all costs for such monitoring.

15. Restitution

Respondent shall make restitution to _____ in the amount of \$_____ and shall provide the Board with a written release from _____ attesting that full restitution has been paid. Restitution shall be completed before the termination of probation.

16. Restricted Practice

Respondent shall be prohibited from _____ (performing certain types of engagements such as audits, reviews, compilations, or attestation engagements, etc.), and/or from practice in _____ (certain specialty areas, i.e. bookkeeping, write-up, tax, auditing, etc.).

17. Engagement Letters

Respondent shall use engagement letters with each engagement accepted during probation and shall provide copies of same to the Board or its designee upon request.

18. Library Reference Materials

Respondent shall have immediate access to, shall use, and shall maintain published materials and/or checklists that are consistent with the practice. Such materials and checklists shall be produced on-site for review by the Board or its designee upon reasonable notice.

19. Ethics Course/Examination

Respondent shall take and pass with a score of 90 percent or better a Board approved ethics examination (within a given period of time or prior to the resumption of practice). (Exam will be passed prior to resumption of practice where license has been suspended or where otherwise appropriate.)

If respondent fails to pass said examination within the time period provided or within two attempts, respondent shall so notify the Board and shall cease practice until respondent takes and successfully passes said exam, has submitted proof of same to the Board, and has been notified by the Board that he or she may resume practice. Failure to pass the required examination no later than 100 days prior to the termination of probation shall constitute a violation of probation.

Notwithstanding any other provision of this probation, failure to take and pass this examination within five years of the effective date of this order constitutes a separate cause for discipline of respondent's license.

20. CPA Exam

Respondent shall take and pass the (section) of the CPA examination (within a given period of time - e.g., within 180 days of the effective date of the decision or within 180 days of completion of educational program, etc. or prior to the resumption of practice). (Exam will be passed prior to resumption of practice where license has been suspended or where otherwise appropriate.)

If respondent fails to pass said examination within the time period provided or within two attempts, respondent shall so notify the Board and shall cease practice until respondent takes and successfully passes said exam, has submitted proof of same to the Board, and has been notified by the Board that he or she may resume practice. Failure to pass the required examination no later than 100 days prior to the termination of probation shall constitute a violation of probation.

21. Enrolled Agents Exam

Respondent shall take and pass the enrolled agents exam (within a given period of time or prior to the resumption of practice). (Exam will be passed prior to resumption of practice where license has been suspended or where otherwise appropriate.)

If respondent fails to pass said examination within the time period provided or within two attempts, respondent shall so notify the Board and shall cease practice until respondent takes and successfully passes said examination, has submitted proof of same to the Board, and has been notified by the Board that he or she may resume practice. Failure to pass the required examination no later than 100 days prior to the termination of probation shall constitute a violation of probation.

22. Continuing Education Courses

Respondent shall complete and provide proper documentation of (specified) professional education courses within (a designated time). This (shall be/shall not be) in addition to continuing education requirements for relicensing.

OR

Respondent shall complete professional education courses as specified by the Board or its designee at the time of respondent's first probation appearance. The professional education courses shall be completed within a period of time designated and specified in writing by the Board or its designee, which time frame shall be incorporated as a condition of this probation. This (shall be/shall not be) in addition to continuing education requirements for relicensing.

Failure to satisfactorily complete the required courses as scheduled or failure to complete same no later than 100 days prior to the termination of probation shall constitute a violation of probation.

23. Active License Status

Respondent shall at all times maintain an active license status with the Board, including during any period of suspension. If the license is expired at the time the Board's decision becomes effective, the license must be renewed within 30 days of the effective date of the decision.

24. Samples - Audit, Review or Compilation

During the period of probation, if the respondent undertakes an audit, review or compilation engagement, the respondent shall submit to the Board as an attachment to the required quarterly report a listing of the same. The Board or its designee may select one or more from each category and the resulting report and financial statement and all related working papers must be submitted to the Board or its designee upon request.

25. Prohibition from Handling Funds

During the period of probation the respondent shall engage in no activities which require receiving or disbursing funds for or on behalf of any other person, company, partnership, association, corporation, or other business entity.

26. Community Service - Free Services

Respondent shall participate in a community service program as directed by the Board or its designee in which respondent provides free professional services on a regular basis to a community or charitable facility or agency, amounting to a minimum of ____ hours. Such services to begin no later than __ days after respondent is notified of the program and to be completed no later than _____. Respondent shall submit proof of compliance with this requirement to the Board. Respondent is entirely responsible for his or her performance in the program and the Board assumes neither

express nor implied responsibility for respondent's performance nor for the product or services rendered.

27. Cost Reimbursement

Respondent shall reimburse the Board \$_____ for its investigation and prosecution costs. The payment shall be made within _ days/months of the date the Board's decision is final.

Option: The payment shall be made as follows: _____[specify either prior to the resumption of practice or in quarterly payments (due with quarterly written reports), the final payment being due one year before probation is scheduled to terminate].

28. Relinquish Certificate

Respondent shall relinquish and shall forward or deliver the certificate or permit to practice to the Board office within 10 days of the effective date of this decision and order.

29. Notification to Clients/Cessation of Practice

In orders that provide for a cessation or suspension of practice, respondent shall comply with procedures provided by the California Board of Accountancy or its designee regarding notification to, and management of, clients.

30. Medical Treatment

Respondent shall undergo and continue treatment by a licensed physician of respondent's choice and approved by the Board or its designee until the treating physician certifies in writing in a report to the Board or its designee that treatment is no longer necessary. Respondent shall have the treating physician submit reports to the Board at intervals determined by the Board or its designee. Respondent is responsible for costs of treatment and reports.

(Optional)

Respondent shall not engage in practice until notified by the Board of its determination that respondent is physically fit to practice.

31. Psychotherapist

Respondent shall undergo and continue treatment by a licensed psychotherapist of respondent's choice and approved by the Board or its designee until the treating psychotherapist certifies in writing in a report to the Board or its designee that treatment is no longer necessary. Respondent shall have the treating psychotherapist submit reports to the Board at intervals determined by the Board or its designee. Respondent is responsible for costs of treatment and reports.

(Optional)

Respondent shall not engage in practice until notified by the Board of its determination that respondent is mentally fit to practice.

32. Rehabilitation Program/Chemical Dependence

Respondent shall successfully complete or shall have successfully completed a rehabilitation program for chemical dependence that the Board or its designee approves and shall have reports submitted by the program. If a program was not successfully completed prior to the period of probation, the respondent, within a reasonable period of time as determined by the Board or its designee but not exceeding 90 days of the effective date of the decision, shall be enrolled in a program.

In addition, respondent must attend support groups, (e.g. Narcotics Anonymous, Alcoholic Anonymous etc.), as directed by the Board or its designee. Respondent is responsible for all costs of such a program.

33. Drugs - Abstain From Use

Respondent shall completely abstain from the personal use of all psychotropic drugs, including alcohol, in any form except when the same are lawfully prescribed.

34. Drugs - Screening

Respondent shall participate or shall have participated in a drug screening program acceptable to the Board and shall have reports submitted by the program.

Respondent is responsible for all costs associated with said screening and reporting.

35. Biological Fluid Testing

Respondent, at any time during the period of probation, shall fully cooperate with the Board or its designee in its supervision and investigation of compliance with the terms and conditions of probation, and shall, when requested, submit to such tests and samples as the Board or its designee may require for the detection of alcohol, narcotics, hypnotic, dangerous drugs, or controlled substances. Respondent is responsible for all costs associated with this investigation and testing.

Conditions 30-35 shall be used when evidence indicates respondent may have physical or mental ailment(s) or conditions(s) which contributed to the violation or when the same are alleged by respondent to be a contributing factor to the violation(s).